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Subject: CALL FOR BROADER EPA PFAS POLICIES UNDER SEVERAL LAWS Inside EPA | 10/18/2018 --- good summary of views for management plan

ENVIRONMENTALISTS CALL FOR BROADER EPA PFAS POLICIES UNDER SEVERAL LAWS

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Environmentalists are calling on *EPA* to broaden its actions to stem the environmental impacts of the class of non-stick chemicals known as per- and polyfluoroalkyl substances (PFAS), including regulating PFAS under multiple environmental laws and launching new testing and monitoring of the chemicals in drinking water systems.

They are also calling for *EPA* to develop more analytical detection methods for a wider swath of the thousands of chemicals in the class, and to provide additional resources to states. Some states have been leading efforts to address the chemicals through drinking water advisories and levels, at times setting stricter levels than *EPA* has established for two of the most common PFAS -- perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS).

Chemical manufacturers, state drinking water regulators and water utilities, among others, also submitted comments to *EPA* on suggestions for addressing PFAS. And drinking water utilities this summer submitted comments warning *EPA* not to leap ahead with regulatory actions on PFAS before addressing significant gaps in detection and treatment, health effects and lab capacity.

EPA took comments through Sept. 28 on its PFAS efforts, in particular soliciting remarks on efforts it is undertaking to characterize risks from the chemicals and develop monitoring and treatment techniques, as well as asking for advice on near-term actions to address state and local challenges beyond those *EPA* has said it is moving forward on, and on risk communication strategies to address public concerns over the chemicals.

PFAS, used in a host of consumer and industrial applications including in firefighting foam, is a class of thousands of emerging contaminants that is increasingly drawing concerns due to its presence in drinking water systems. They have been linked to several adverse health effects, including certain cancers, ulcerative colitis and thyroid disease.

While *EPA* is considering several actions to address PFAS, including an enforceable drinking water standard, known as a maximum contaminant level (MCL), and listing chemicals as "hazardous substances" under the Superfund statute or other laws, *EPA's* top official leading efforts to address the chemicals recently told lawmakers that if the agency does decide to move forward on such regulations, it would take years to complete.

In various comments submitted to the agency, a multitude of environmental groups are urging *EPA* to adopt a number of measures -- both in broadening drinking water testing -- and in other areas of law. Relevant documents are available on [InsideEPA.com](https://www.epa.gov/insideepa). (Doc. ID: 215928)

"*EPA's* current proposed actions are entirely inadequate," the Southern Environmental Law Center (SELC) says in Sept. 28 comments. In particular, the group says, "(1) they only consider two of the thousands of existing PFAS, allowing companies to continue using the regulatory loopholes that they have used for decades, and (2)

they do nothing to stop additional toxic PFAS from spewing into our air, soil, and water, and remaining there for decades."

On the drinking water front, environmental groups allege *EPA's* past Unregulated Contaminant Monitoring Rule 3 (UCMR3) was inadequate in capturing the extent of PFAS contamination in drinking water systems. In its comments, Environmental Working Group (EWG) calls for testing all public water systems, capturing all PFAS chemicals for which analytical detection methods exist, rather than just six compounds, and using lower reporting levels.

A group representing state drinking water regulators agrees that PFAS compounds should be in the next UCMR round, UCMR5, saying sampling should be at lower detection limits such as from 5 to 10 parts per trillion (ppt) instead of the 20-40 ppt range used in UCMR3, and additional compounds should be added to testing. The group, Association of State Drinking Water Administrators (ASDWA), says in July 20 comments that *EPA* should also test for total organic fluorine to detect other classes of highly fluorinated compounds impacting water resources.

EPA's Peter Grevatt, director of the Office of Ground Water and Drinking Water, speaking at an Oct. 11 Children's Health Protection Advisory Committee meeting said the agency is considering including other PFAS in the next UCMR, although it is having to balance that with other priorities, and needs to ensure there are sufficient analytical capabilities. At the same time, during a Senate hearing at the end of September, he said the agency has enough data to decide whether or not to set an MCL for PFOA and PFOS. One of the factors *EPA* uses to determine whether to set an MCL is the UCMR data regarding how much a contaminant occurs in public drinking water systems and at what levels.

Further, ASDWA cautions *EPA* against relying solely on the UCMR3 findings to decide on whether to develop an MCL, with UCMR3 showing that just three percent of all systems tested were affected by PFAS. But ASDWA doubts the UCMR3 accurately portrays the extent of contamination, noting the high detection and reporting limits compared to levels of concern heard today, and that the chemicals have been found at many more locations beyond those locations for which UCMR3 required monitoring. It says that many small groundwater systems were not included in the testing.

Environmentalists call for a number of other regulatory actions. A multitude of groups call for designating the chemicals as hazardous substances or toxic pollutants under the Clean Water Act. The Natural Resources Defense Council (NRDC) -- which submitted as comments testimony it gave recently before a House subcommittee -- and EWG in separate comments say PFAS should be given the hazardous substance/toxic pollutant designation under sections 304 and 311 of the Clean Water Act (CWA), triggering key monitoring, reporting and permitting requirements to control pollution.

Meanwhile, a host of environmental groups in Sept. 28 comments submitted by Earthjustice says *EPA* should add PFAS as a group to its toxic pollutant list under CWA section 307(a)(1). "This addition will cause PFAS to be added to the [Superfund] hazardous substance list, which will in turn require federal, state and local government[s] to be notified when PFAS over a certain amount are released into the environment.

EWG and NRDC, among others, call for separately designating the chemicals as a hazardous substance under section 102 of the Superfund law -- something *EPA* is currently weighing. This would "help facilitate clean-ups and ensure responsible parties pay for remediation," EWG says.

Environmentalists and others also are urging *EPA* to tighten its use of the Toxic Substances Control Act (TSCA) on PFAS, closing loopholes that they say are allowing new versions of chemicals in the class to go to market without a safety review. The agency should "take steps to ensure that no new PFAS are manufactured without going through the approval process set forth in section 5 of" TSCA, the Earthjustice comments say. They note that the required pre-market review and approval process under TSCA is often skirted through

regulatory loopholes.

In its comments, American Water Works Association (AWWA), which represents drinking water utilities, says that **EPA** at a national PFAS summit earlier this year "alluded to the use of its authority under TSCA to collect additional data but has not committed to the effective use of this authority." The group says **EPA** through TSCA can obtain data on chemical toxicity, properties related to fate and transport, and manufacture and use sites, which can inform it on how to manage exposures. AWWA backs **EPA**'s effort to evaluate PFOA and PFOS for potential regulation through an MCL, but stops short of saying an MCL should be set. The group also stresses that other PFAS sources besides drinking water should be examined.

Both environmental groups and ASDWA call for **EPA** to add PFAS to the Toxic Release Inventory (TRI), which serves to alert communities of toxic contamination. "**EPA** has failed to add any PFAS to the TRI despite indicating over a decade ago that it would take steps to do so," Earthjustice writes.

SELC's comments in particular point out contamination caused by a former DuPont plant now owned by the Chemours Company in North Carolina, as it makes its case for the chemicals to be regulated under the Clean Air Act as well. It says **EPA** should designate all PFAS as "hazardous air pollutants" under the law and issue national emission standards. It says that air emissions result in soil, water and other media contamination.

On the issue of analytical methods, EWG says the agency lacks analytical methods to cover most PFAS. It should invest in developing new methods, using the lowest detection limits available. And EWG says with states playing a "leading role in addressing the risks" from PFAS, **EPA** should provide additional resources to states for research, monitoring and cleanup.

Lab capacity is another issue that re-surfaces in comments, with the National Ground Water Association, which represents contractors, engineers, suppliers and others, saying in Sept. 28 comments that **EPA** offers a list of just 21 labs capable of using its method 537 to test for PFAS. The group says resources must be added to boost the number of labs with this capability. The limited number that currently exist makes testing cost-prohibitive, it says.

In its Sept. 28 comments, the American Chemistry Council (ACC), which represents chemical manufacturers, stresses that actions **EPA** is currently working on need to be based on "the best science available" and effectively communicated to the public.

ACC asks for **EPA** to include several additional measures in its PFAS management plan -- which the agency expects to release by the end of the year. The group asks that the agency also finalize 2015 amendments to its Significant New Use Rules for PFOA, PFOS, and other PFAS no longer manufactured in the United States to address imports; create a federal interagency process to coordinate research, monitoring and cleanup efforts across federal agencies; and advance methods for determining the chemical and toxicological properties of the extensive number of PFAS to assist in prioritizing those needing greater scrutiny.

The group also asks that **EPA** include in the management plan development of "an effective risk communication program" offering information to communities to lower their exposure to contaminants. ACC says there is confusion about what are safe levels of exposure. "This confusion is heightened by the number of conflicting federal and state guidelines, standards, and other criteria for these substances," it says.

"States and local governments have taken a variety of approaches to address PFAS, but **EPA** can demonstrate leadership to these entities and to the public by clearly communicating the actions it is taking to protect public health and why." -- Suzanne Yohannan

Sent from my iPhone

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